



Town of Walpole
Commonwealth of Massachusetts
Zoning Board of Appeals

John Lee, Chairman
Susanne Murphy, Vice Chair
Robert Fitzgerald, Clerk
Mary Jane Coffey, Member
Drew Delaney, Member

DECISION ON CHAPTER 40B COMPREHENSIVE PERMIT APPLICATION
G.L. c. 40B, §§20-23

APPLICANT
Wall Street Development Corp

LOCATION OF PROPERTY INVOLVED
Dupee Street
Walpole Assessors Map: 35; Lot 380-1

I. PROCEDURAL HISTORY

1. An application for a Comprehensive Permit was submitted by Wall Street Development Co. (the “Applicant”) to the Walpole Zoning Board of Appeals (the “Board”) on February 28, 2020. The original application proposed twelve (12) home ownership units within six (6) structures to be located on property located on Assessor’s Map 35, Lot 380-1 at Dupee Street, Walpole, Massachusetts (the “Project”). During the hearing process the Applicant revised the Project to eight (8) single-family homes.
2. The Board’s hearing on the application was duly opened on March 18, 2020 and was continued May 20, 2020 (no testimony taken); May 20, 2020 (no testimony taken); June 17, 2020; July 27, 2020; August 17, 2020; August 26, 2020; September 21, 2020; October 5, 2020; October 26, 2020; October 28, 2020; November 18, 2020; December 2, 2020; January 13, 2021; February 24, 2021; March 24, 2021; April 14, 2021; and May 5, 2021. The public hearing was closed on May 5, 2021. The Board deliberated on the decision on May 26, 2021 and **June __, 2021**. All of the public hearings and meetings were held via a virtual platform (zoom webinars) due to the Governor’s March 10, 2020 declaration of a State of Emergency caused by the COVID-19 pandemic which put limits on public gatherings. All submittals concerning the Project are part of the administrative record kept at Walpole Town Hall and incorporated herein. All

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- waivers requested and votes taken are listed on **Exhibit A** and incorporated herein.
3. The Project is located at Assessor's Map 35, Parcel 380-1, Dupee Street, Walpole, Massachusetts.
 4. The Property is located in the Residence B (RB) Zoning District. The Property consists of one parcel totaling 1.22+/- acres. There are no existing buildings or improvements on the Property. The Property resides along Dupee Street which is a private gravel roadway, extending approximately 300+/- feet from its intersection with High Plain Street. The remainder of Dupee Street, which the parcel in question resides along, is undeveloped.
 5. The Applicant provided certain materials, reports, and revised plans during the course of the public hearing on the Application. During the public hearing, the Applicant was represented primarily by its principal, Louis Petrozzi. The Applicant's engineering consultant is Robert Truax, of GLM Engineering Consultants, Incorporated.
 6. The Board utilized the services of Tetra Tech, Inc. ("Tetra Tech") for civil engineering, stormwater peer review and traffic peer review. Davis Square Architects ("Davis Square") was utilized for architectural review. Judi Barrett of Barrett Planning Group LLC advised the Board as its 40B technical consultant through the Massachusetts Housing Partnership Technical Review program. Town Counsel also attended the public hearings and advised the Board.
 7. During the hearings, there was significant public input on a number of neighborhood concerns. The Board heard input from abutters and other interested persons throughout the hearing process. The following Board members were present for the entire public hearing process: Chairman John Lee, Vice Chairman Susanne Murphy, Mary Jane Coffey, and Drew Delaney. Board members Robert Fitzgerald and Jane Coffey were absent from a public hearing but complied with G.L. c. 39, § 23D.

II. JURISDICTIONAL FINDINGS

8. The Applicant received a Project Eligibility Letter ("PEL") from MassHousing dated December 6, 2019 and submitted a copy to the Board with the original application. According to the PEL, the Applicant has demonstrated its eligibility to submit an application for a Comprehensive Permit to the Board, and the

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development fulfills the minimum Project eligibility requirements set forth in 760 CMR 56.04(1) as follows:

- a. The Applicant has agreed to form a limited dividend organization prior to applying for final approval (as defined in 760 CMR 56.02), Diamond Hill Development LLC, which will have a principal place of business of 2 Warthin Circle, Norwood, Massachusetts. The Applicant has agreed to conform to the limited divided requirements of M.G.L Chapter 40B.
 - b. The Applicant has included a copy of Purchase and Sale Agreements and certain deeds regarding the Property upon which the Board relies, in relevant part. According to the PEL, the Applicant has shown threshold evidence of site control sufficient to qualify as an Applicant for a Comprehensive Permit.
 - c. The Applicant has agreed to execute a Regulatory Agreement that limits its total profit and directs the redistribution of excess profit in accordance with the regulations adopted by the Massachusetts Department of Housing and Community Development ("DHCD").
9. On April 25, 2019, the DHCD approved Walpole's Housing Production Plan pursuant to 760 CMR 56.03(4).

III. FACTUAL FINDINGS

10. The Board engaged peer reviewers to review issues concerning civil engineering, traffic, site design, architecture and stormwater impacts of the Project. The Board also sought comments from Town Departments and abutters in the surrounding area.
11. Both the Fire Department and Engineering Department expressed concerns for the roadway width and initial "hammerhead" turn-around proposal for emergency access. The Fire Department expressed concern that the proposed twenty (20) foot roadway width would make emergency vehicle access difficult and street parking prohibited.
12. There was significant delay in the Project being presented to the Board due to a disagreement between the Board and the Applicant on the scope and fee schedule of peer review. The Board's engineering peer review consultant, Tetra Tech, provided a scope of work for peer review dated 3/18/20 which was accepted by the Board on 7/27/20. The peer review scope of work for \$9,950 was requested by

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the Board within seven (7) days of 7/27/20. The Board received a partial sum of \$4,950 from the Applicant on 8/12/20. The Board requested that the Applicant submit the remainder of the \$5,000 approved peer review scope of work within seven (7) days of 8/17/20. The Applicant submitted an additional partial sum of \$1,200 for traffic review by Tetra Tech on 10/2/20. The full \$9,950 requested for Tetra Tech's original peer review scope of work was never received by the Board. On 4/14/21 the Board accepted an amendment to Tetra Tech's peer review scope of work for an additional \$6,000 in addition to the originally approved \$9,950 peer review scope of work. This amendment was required to cover peer review services that had extended beyond the original scope of work. The Board requested this additional peer review funding from the Applicant within seven (7) days of 4/14/21. The Board has not received any additional peer review funding from the Applicant.

The Board's architectural peer review consultant, David Square Architects, provided a scope of work for peer review dated 8/13/20 and accepted on 8/17/20. The peer review scope of work for \$4,000 was requested by the Board within seven (7) days of 8/17/20. The Board received the full requested amount for architectural peer review on 8/31/20.

13. Peer Review from Tetra Tech and Davis Square both expressed technical concerns with the Project's density within the site. The initial proposal of twelve (12) units within six (6) buildings was problematic for a site consistent of only 1.22 +/- acres and an approximately 30 foot right-of-way, which is far smaller than standard right-of-way requirements listed within Walpole's subdivision rules and regulations. The proposed twenty (20) foot wide roadway was the minimum width that would be considered acceptable for emergency access.
14. Peer Review from Tetra Tech had expressed concerns with the site's stormwater drainage due to the amount of clear cutting of trees needed and the elevation of the site being significantly higher than the surrounding neighborhoods. After revisions, the peer reviewer indicated that all major stormwater issues had been addressed.
15. Peer Review from Tetra Tech also expressed concerns with the narrow road to access the site when it came to snow removal.
16. Dupee Street is a private way and is not intended to be a public way even after the proposed development. Snow removal for the site shall be the responsibility of the Applicant.

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17. The Applicant amended its proposal from twelve (12) duplex style housing units to eight (8) single-family style housing units. A rounded cul-de-sac turn-around replaced the originally proposed hammerhead turn-around.
18. Fire Apparatus Turning Plans were provided for the right turn ingress and egress to the site with both a "pumper truck" and "ladder truck". While both fire apparatuses could perform the turn around the cul-de-sac, only the shorter pumper truck was shown to be able to make the right hard turn into Dupee Street from High Plain Street without crossing into the opposite side of traffic. Due to the narrow roadway and close positioned homes impacted the view of the street, a ladder truck would need to swing left first before being able to access the site by making a right hand turn.
19. The architectural renderings of the proposed single-family dwelling units remain inconsistent with what is proposed on the Project's site plan. The final site plan submitted to the Board and Building Commissioner will need to be consistent with the proposed architectural renderings.
20. The Board finds that issuance of a Comprehensive Permit, with the conditions and waivers contained below, is consistent with local needs
21. The Board finds that the conditions imposed in Section IV of the Decision are necessary in order to address Local Concerns. Based upon the fact that the Applicant was afforded ample opportunity to address these conditions during the public hearing and did not challenge the conditions on the grounds that they either singly or in the aggregate render the Project uneconomic, the Board finds that such conditions will not render the Project uneconomic.
22. The Board acknowledges concerns raised by abutters and other interested parties, including but not limited to, concerns relating to the roadway width, public safety access, construction vehicle traffic, stormwater drainage, building height and design, and landscaping. The Board had addresses these concerns by the imposition of appropriate conditions. The Board further finds that conditions detailed below appropriately addressed these matters of local concern in a manner that outweighs the regional need for affordable housing. The Board finds that the conditions imposed below address local and regional housing needs while properly protecting valid issues of local concern.

IV. CONDITIONS

A. General

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- A.1 Except as may be provided for in the following Conditions or in the Final Plans referenced below, the Project shall be constructed substantially in conformance with the plans and drawings listed below in this Condition A.1, which for purposes of this Comprehensive Permit shall be considered the Approved Plans for the Project ("Approved Plans"). The Approved Plans consist of the following:

"Site Development Plan, A Comprehensive Permit M.G.L. c. 40B, Diamond Hill Estates", prepared by GLM Engineering Consultants, Inc., 19 Exchange Street, Holliston, MA 01746, **dated February 26, 2020, with revisions through March 15, 2021**

The Plan Set consists of the following sheets:

- Sheet 1. Cover Sheet
- Sheet 2. Existing Conditions
- Sheet 3. Layout Plan
- Sheet 4. Grading, Drainage & Utilities
- Sheet 5. Roadway Profile
- Sheet 6. Landscape
- Sheet 7. Details
- Sheet 8. Details
- Sheet 9. Details
- Sheet 10. Details
- Sheet 11. Details
- Sheet 12. Details
- Sheet 13. Details

The Applicant did not initially submit architectural plans stamped by a licensed Massachusetts Architect. Revisions were submitted and dated June 3, 2020, January 2021, and February 2021. Final revised plans are as follows:

Architectural plans dated: February 2021, by Morabito Architects

- Sheet 1. Concept Plan 1. (Elevation)
- Sheet 2. Concept Plan 1. (Floor Plan)
- Sheet 3. Concept Plan 2. (Elevation)
- Sheet 4. Concept Plan 2. (Floor Plan)
- Sheet 5. Concept Plan 3. (Elevation)
- Sheet 6. Concept Plan 3. (Floor Plan)

Additional Plans:

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Fire Apparatus Turning Movement dated: February 3, 2021, by Green International Affiliates, Inc.

Pumper Fire Truck U-Turn Around the Cul-de-sac

Pumper Fire Truck Right Turn Enter & Exit

Ladder Fire Truck U-Turn Around the Cul-de-sac

Ladder Fire Truck Right Turn Enter & Exit

Street Lighting Plan dated: December 15, 2020, by Speclines Innovative Outdoor Lighting Solutions

- A.2 The Applicant shall be a Limited Dividend Organization as required by Chapter 40B and it and its successors and assigns, shall comply with the limited dividend and other applicable requirements of Chapter 40B and the regulations adopted thereunder.
- A.3 The Project shall consist of not more than eight (8) single-family dwelling units of which two (2) will be affordable as defined by the subsidizing agency.
- A.4 The Project provides a garage and driveway for each unit. There shall be four (4) parking spaces per unit, two (2) parking spaces within each unit's garage, and two (2) parking spaces within each unit's driveway. This will be consistent for the affordable units as well. Driveways spaces shall have a minimum depth of 20 feet as measured from the face of the building to the closer of the nearest route of public accommodation or the right-of-way.
- A.5 There will be two (2) visitor parking spaces available on the site as shown on the approved final plan. Identified visitor parking and all other forms of identified parking must meet the minimum requirements and not impede emergency access to and from the site.
- A.6 All on-street parking or any other storage/staging within the roadway is prohibited.
- A.7 Affordable units shall be interspersed evenly throughout the Project, as approved by the Subsidizing Agency during Final Approval.

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- A.8 Pursuant to the revised Waiver List submitted to the Board and attached hereto as Exhibit A, the Applicant has requested, and the Board has granted, those waivers from the Walpole Zoning Bylaw and other local by-laws and regulations as specified therein. Some of the waivers granted by the Board have been granted conditionally, as set forth in Exhibit A. Those conditions are expressly incorporated by reference as conditions of approval to this Comprehensive Permit. No waivers are granted from requirements that are beyond the purview of G.L. c. 40B, §§20-23, and no waivers of any requirements otherwise within the Board's jurisdiction under G.L. c.40B, §§20-23 have been granted except for those expressly granted by the Board as set forth in Exhibit A. To the extent the Approved Plans reflect a waiver not expressly granted in Exhibit A, the terms and conditions of Exhibit A shall govern. No waiver of building permit or inspection fees has been granted. Any subsequent revision to the Final Plans, including but not limited to revisions that are apparent in the Final Plans that require additional or more expansive waivers of any local by-laws or regulations, must be approved by the Board in accordance with 760 CMR 56.05(11).
- A.9 The Project shall comply with all local regulations of the Town of Walpole and its boards, commissions and departments unless specifically waived herein.
- A.10 The Applicant shall copy the Board, through the Board Secretary and the Community and Economic Development Director, on all correspondence between the Applicant and any federal, state, or Town official, board, or commission concerning the conditions set forth in this decision, including but not limited to all testing results, official filings, environmental approvals, and other permits issued for the Project.
- A.11 Except as otherwise specifically provided herein, where this Decision provides for the submission of plans or other documents for approval by the Building Commissioner or other Town Departments, the Building Commissioner or applicable Department Head will use reasonable efforts to review and provide a written response within thirty (30) days following submission. For submissions that require assistance from an outside consultant, as determined by the Building Commissioner or applicable Department Head, the thirty-day time period shall not begin until the consultant's fee has been fully funded by the Applicant.

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- A.12 The provisions of this Comprehensive Permit Decision and Conditions shall be binding upon the successors and assigns of the Applicant, and the obligations shall run with the land. In the event that the Applicant sells, transfers, or assigns its interest in the development, this Comprehensive Permit shall be binding upon the purchaser, transferee, or assignee and any successor purchasers, transferees or assignees. The limited dividend restrictions shall apply to the owner of the Project regardless of sale, transfer, or assignment of the Project.
- A.13 The driveways, road, utilities, drainage systems, and all other infrastructure shown on the Approved Plans as serving the Project shall remain private in perpetuity, and the Town of Walpole shall not have, now or in the future, any legal responsibility for the operation or maintenance of the infrastructure, including but not limited to snow removal, drainage and landscape maintenance.
- A.14 Unless otherwise indicated herein, the Board may designate an agent to review and approve matters on the Board's behalf subsequent to this Decision.
- A.15 The Applicant shall submit to the Building Commissioner and Board prior to any construction or site development activities (including site clearing, tree removal, grading, etc.):
- a. Final Architectural Plans prepared, signed and sealed by an architect with a valid registration in the Commonwealth of Massachusetts. Said plans shall be reviewed by the Building Commissioner, as to whether or not the Final Plans conform to the Approved Plans and the conditions of approval. If the Building Commissioner takes no action within thirty (30) days of receipt, the plans shall be deemed to conform.
 - b. Final Engineering Drawings and Plans ("Final Plans") that conform to the requirements of this Comprehensive Permit and incorporate the conditions herein. The Final Plans shall also incorporate all conditions and requirements of permitting agencies having jurisdiction. Applicable sheets of the Final Plans shall be signed and sealed by the Professional Land Surveyor of record and the Professional (Civil) Engineer of record. The Final Plans shall be submitted to the Building Commissioner at least thirty (30) days prior to the anticipated date of the submission of an application for building permits (the "Final Site Plan Submission Date").

At a minimum, the Final Plans shall be in accordance with the comments from the peer review consultants and Town staff detailed during the course of the hearing. If no written response of comments have been given to the Applicant

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by the Board concerning the Final Plans within (3) days after the Final Plan Submission Date, the Final Plans, as delivered, will be deemed to have been approved.

B. Affordability

- B.1 A minimum of 25% of the home ownership units shall be low- or moderate-income units, meaning that they shall be sold to, and occupied by, households whose income is not more than 80% of the Area Median Income ("AMI"), as determined by the United States Department of Housing and Urban Development ("HUD") and DHCD ("Affordable Units"). Affordable units shall be dispersed throughout the Project in accordance with the guidelines of the Subsidizing Agency. The Applicant shall be responsible for maintaining records sufficient to comply with DHCD guidelines for the location of Affordable Units in the Project and occupancy of such Units by income-eligible households.
- B.2 Upon completion of the Project, and in perpetuity two (2) units shall meet the criteria for inclusion in the DHCD's Subsidized Housing Inventory.
- B.3 The Applicant shall obtain approval by the Subsidizing Agency of an affirmative fair housing marketing plan prior to the sale or rental of any units and shall ensure that the Project complies with the Subsidizing Agency's fair housing requirements.

C. Submission Requirements

- C.1 Prior to any construction or site development activities (including site clearing, tree removal, grading, etc.) on the Property, whether or not pursuant to a building permit, the Applicant shall:
- a. Deliver to the Board a check in a reasonable amount determined by the Building Commissioner to be used for the Building Commissioner to retain outside experts for technical and legal reviews required under these conditions. Said funds shall be deposited by the Building Commissioner in an account pursuant to G.L. c. 44, s. 53G and shall only be used for technical reviews associated with this Project. Any unspent funds shall be returned to the Applicant with accrued interest at the completion of the Project. If at any time the Building Commissioner reasonably determines that there are insufficient funds to cover the costs of technical reviews, it shall inform the Applicant and the Applicant shall forthwith deliver additional funds as specified by the Building Commissioner in a

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reasonable amount as may be determined by the Building Commissioner.

- b. Obtain any and all Federal, State and local permits and approvals required for the construction and operation of the Project.
- c. Obtain a National Pollution Discharge Elimination System (NPDES) Permit from the U.S. Environmental Protection Agency (EPA), if necessary. The Board shall also be provided a copy of the Stormwater Pollution Prevention Plan (SWPPP) submitted along with the NPDES filing.
- d. Submit Final Plans and supporting documentation for review and approval by the Board and Building Commissioner and its review consultant.
- e. Determine the volume of cuts/fills needed for the Project and provide such information to the Board, signed by the Registered (Civil) Engineer of record.
- f. A construction management plan shall be submitted to the Building Commissioner for review and approval, including, but not limited to, dust control measures, fill delivery schedules, stockpiling area, and like matters. The Applicant shall conform to all local, State, and Federal laws regarding noise, vibration, dust, and blocking of Town roads. The Applicant shall at all times use all reasonable means to minimize inconvenience to residents in the general area. The Applicant shall keep all portions of any public way used to access/egress the Project free of soil, mud or debris deposited due to use by construction vehicles associated with the Project. During the construction process an up-to-date Material Safety Data Sheet must be updated and kept on site with any materials brought onto site and used on site by the construction team. The Building Commissioner may restrict hours of delivery depending upon peak traffic concerns. The Building Commissioner may also request police detail as needed with coordination and input from the Police Chief.
- g. Other than site work and such other work as may be authorized in writing by the Building Commissioner, no other construction of units shall commence and no building permits shall be issued under this Comprehensive Permit until the Building Commissioner has approved the Final Plans as being in conformance with this Decision.

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- h. The construction management plan shall also provide a 24-hour contact person for the Applicant who will be available to respond to local officials or area residents reporting issues or problems that may arise during construction.
 - i. Submit to the Building Commissioner a construction schedule outlining the entire development of the Project.
 - j. Submit to the Board a Site-Specific Safety Plan including but not limited to emergency contacts information for the job team, muster point for emergency personnel, emergency response plan, sign-in area for all site visitors, designated employee parking area, and designated fueling area. All employees on site shall be responsible for understanding the plan and, at any point during the construction process, the Project shall be subject to inspection by the Building Commissioner for compliance of all site personnel.
- C.2 Prior to the issuance of any building permits, the Applicant shall:
 - a. Record this Comprehensive Permit with the Norfolk Registry of Deeds, at the Applicant's expense, and provide proof of such recording with the Walpole Building Commissioner, Community and Economic Development Director.
 - b. Submit to the Board and the Building Commissioner evidence of Final Approval from the Subsidizing Agency, MassHousing, as required by the Project Eligibility Letters and the Chapter 40B regulations.
 - c. Submit to the Board and the Building Commissioner a certified copy of the Regulatory Agreement and Monitoring Services Agreement for the Project and evidence of recording the same. The Building Commissioner shall also be provided with evidence of a subsidy funding commitment by MassHousing or an approved New England Fund lender prior to the issuance of any building permit.
 - d. Submit all Final Plans to the Board and Building Commissioner for their review and approval.
 - e. Obtain and file with the Building Commissioner a copy of all required Federal, State, and local permits and approvals required to begin construction of the Project.

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- f. Obtain all necessary electrical, plumbing, and other permits required to begin construction on the building for which the building permit is sought.
- g. The Applicant shall provide security in sum of one hundred twenty-five percent (125%) of the bona fide estimate of the cost of sediment control and site stabilization. These funds will be used to stabilize the Property should the Project be abandoned, or should no construction activity take place for twelve consecutive months.

D. Construction Completion/Certificate of Occupancy

D.1 Prior to issuance of certificate of occupancy for specific dwelling units, the Applicant shall:

- a. Submit engineer's interim certification of compliance with utilities plan and profiles (as applicable) to the Walpole Building Commissioner.
- b. Provide a letter to the Board, signed by the Applicant's civil engineer, certifying that the as-built Project has been constructed in compliance with the Final Plans in all material respects, or noting where there are differences.
- c. Obtain acceptance from the Walpole Fire Department of testing of all fire protection systems, fire alarm systems, fire sprinkler systems, and local smoke alarms within the dwelling units and that all fire hydrants are in place at proper grade and functioning.
- d. Submit to the Board's counsel the Condominium Master Deed, Condominium Declaration of Trust and accompanying condominium plans (together, the Condominium Documents"). Such Condominium Documents shall incorporate all the conditions of this Decision.
- e. Submit as-built plan of stormwater basin and infiltration units along with certification by Applicant's Civil Engineer of compliance with the conditions of approval for the stormwater management system set forth in the final approved stormwater management plans that have been approved by the Town's peer review engineer with counsel from Town Engineering.

D.2 Prior to issuance of the certificate of occupancy for the last residential unit, the Applicant shall:

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- a. Submit to the Building Commissioner, in digital file format, a final as-built utilities plan showing actual-in ground installation of all applicable utilities, rim and invert elevations, roadway, sidewalk and associated construction. The file format shall be in a form acceptable to the Building Department. AutoCAD file delivery shall be in full model view and individual sheet views. The digital file shall include property boundaries, dimensions, easements, rights-of-way, edge of pavement, edge of sidewalk, topographic contours, spot elevations, parking areas, road centerline and associated text. Said digital data shall be delivered in the Massachusetts State Plane Coordinate System, North American Datum 1983 and North American Vertical Datum 1988, in U.S. Survey Feet.
- b. Submit to the Building Commissioner as-built plans for all buildings in the Project.
- c. Submit to the Board all information relating to the condominium association rules and regulations and the management company being retained to act as the property manager that the Applicant submits to the Subsidizing Agency as part of the Final Approval process. Such property management agreement and condominium association rules and regulations shall, at a minimum, address building security, public access, pet policy, staffing, trash removal, smoking policies, snow and ice removal, and snow storage.
- d. Submit verification that the stormwater management system including but not limited to catch basins, infiltration units, pipes and detention basin, has been inspected and cleaned.
- e. Submit to the Board a certification of compliance with all terms and conditions of this Comprehensive Permit.
- f. Certification by the Town Engineering Department that all off-site measures (if any) are complete.
- g. Certification from the Town's DPW Water and Sewer Department that all sewer and water systems have been installed, tested, and that all valve covers and other related items are at grade and are in proper working condition.

E. Project Design and Construction

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- E.1 Prior to the commencement of any work on the site, the Applicant and the site general contractor shall attend a preconstruction conference with the Building Commissioner and other Town staff as may be determined. If Applicant has obtained a demolition permit, Applicant may proceed with demolition of existing structures in accordance with the terms and conditions of the permit.
- E.2 At reasonable times and after notice to the Applicant, representatives of the Board may observe and inspect the Property and construction progress until such time as the Project has been completed at their own risk.
- E.3 The proposed construction shall be in accordance with applicable Federal and State laws, rules and regulations.
- E.4 All site retaining walls four (4) feet or greater in height shall be designed by a Massachusetts Professional Structural Engineer and shall be equipped with a 4 foot chain link fence for safety purposes.
- E.5 During construction, the Applicant shall comply with the construction management plan referenced in Condition C.1.
- E.6 Appropriate signage shall be shown on the Final Plans. All other sign regulations shall be abided by.
- E.7 The location of all utilities, including but not limited to electric, telephone, and cable, shall be shown on the Final Plans provided to the Board and Building Commissioner.
- E.8 If the Applicant uses natural gas for the Project or any part thereof, gas service locations shall be included on the Final Plans.
- E.9 Lighting shall be installed as follows:
 - a. All proposed exterior lighting shall comply with all applicable federal, state, and local laws, rules, and regulations, including but not limited to, applicable sections of the Massachusetts Building Code, the Walpole Zoning Bylaws, and the Walpole Town Bylaws. In event of a conflict among such requirements, the most restrictive provision shall apply. A proposed lighting plan shall be submitted to the Building Commissioner and Board. The lighting plan submitted shall show all locations of proposed street lighting fixtures, exterior mounted light fixtures, signage

lighting, and landscape lighting. The lighting plan proposed shall include, but not be limited to, a site plan depicting the property lines of all properties for which lighting is proposed, the location and specification of all exterior light fixtures to be installed within the Property, their lumen values, mounting heights, shielding, directionality and controls, protections provided to minimize light pollution, the uses of properties associated with parties in interest, other relevant site conditions, and any additional information required to demonstrate compliance with applicable standards. The lighting plan submitted shall include a proposed photometric calculation to ensure public safety and minimize light trespass from the proposed Project property line.

- b. *Permanent Street Lighting*
No free-standing light fixtures shall be installed to a height exceeding 15 feet. All illumination shall be directed and/ or shielded so as not to shine beyond the perimeter of the site or interfere with traffic. (Walpole ZBL Section 13 Sub-Section 10.A(5))
- c. *Permanent Exterior lighting mounted to building structures*
Broad lighting will be highly discouraged while soft lighting aimed down will be highly encouraged. (Walpole ZBL Section 13 Sub-Section 12.H(1)). Exterior mounted fixtures must be partially shielded directional light fixtures, placed not less than 4 feet apart or 12 feet in height from the surface area to be illuminated.).
- d. *Signage Lighting*
All signage lighting (if applicable) shall comply with Walpole Zoning By-laws per Section 7. All signage lighting shall be limited to white steady, stationary light of reasonable intensity that is directed solely at the sign and shielded from abutting parcels.
- e. *Seasonal Lighting & Landscape Lighting*
Landscape lighting shall be limited to lighting of trees, shrubs, or other plant material. Lighting shall be "low-level light fixtures" (3 feet or lower) and only be directed in a downward facing direction. Seasonal Lighting shall not be permitted for longer than a six-week period in any calendar year.
- f. *Construction & Temporary Lighting*

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Temporary lighting used for security or illumination purposes shall be shielded and down-ward facing. Temporary lighting of the interior buildings must be contained with-in the building structure or shut off between the hours of 7:00 pm to 7:00 am.

g. Photometric Survey:

Upon completion of said Project a photometric study shall be conducted by a registered professional engineer license in the Commonwealth of Massachusetts at the cost of the Applicant to ensure compliance with the conditions of this Section E9. All exterior light fixtures shall comply with IDA fixture seal of approval. All proposed lighting shall promote Dark Skies and minimize glare while reducing light trespass and skyglow. All products proposed shall be required to be fully shielded and minimize the amount of blue-light in the nighttime environment. Light trespass shall be limited to 0.5 foot-candle at the property line and there shall be no unshielded point sources of light visible from adjacent streets and properties.

- E.11 Construction activities shall be conducted between the hours of 7:00 A.M. and 7:00 P.M., Monday through Saturday. Any work causing noise over 85 decibels at any segment of a property line shall be further restricted to hours of 11:00 a.m. to 3:00 p.m. For purposes of this condition, construction activities shall be defined as: start-up of equipment or machinery, vehicle fueling; vehicle access to and from site; delivery of building materials and supplies; delivery or removal of equipment or machinery; removal of trees; grubbing; clearing; grading; filling; excavating; import or export of earth materials; installation of utilities both on and off the site; removal of stumps and debris; and erection of new structures. All off-site utility work shall be coordinated and approved by the Building Department and shall not be subject to the timing restrictions set forth above. Parking of all vehicles and equipment must be on site during construction.

In addition, no exterior work shall be conducted except snow management or work to prepare the site for a weather event, on Sunday or on the following National holidays: New Year's Day, Memorial Day, Fourth of July, Labor Day, Thanksgiving Day, and Christmas.

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- E.12 Burning or burial of construction or demolition debris on the site is strictly prohibited. All such materials are to be removed from the site in accordance with applicable law, and Applicant shall provide manifests/bills of lading to the Town certifying the removal of any waste or contaminants from the Project site. The Applicant shall also include a dumpster location and management plan for approval by the Building Commissioner prior to commencement of work at the Property including a dumpster emptying and removal protocol from a duly licensed and insured private contractor approved by the Building Commissioner. During construction, the site shall be secured against unauthorized entry or vandalism by construction security fencing, and all construction materials shall be stored or stockpiled in a safe manner.
- E. 13 Applicant shall also identify the proposed location for any construction trailer on site during the course of construction for the Building Commissioner's approval. Applicant shall renew the building permit for the construction trailer every six (6) months. Any floodlights used during the construction period shall be located and directed so as to prevent spillover or illumination onto adjacent properties. All construction activities are to be conducted in a workmanlike manner.
- E.14 No building areas shall be left in an open, unstabilized condition longer than sixty (60) days. Temporary stabilization shall be accomplished by hay bales, hay coverings or matting. Final stabilization shall be accomplished by paving or loaming and seeding exposed areas. All 2:1 slopes or steeper areas shall be permanently stabilized with rip rap or vegetated cover.
- E.15 All retaining walls visible from a public way or direct abutters, as determined by the Building Commissioner based upon the time of year when such walls would be most visible, shall be constructed in an aesthetic manner. Specifically, retaining walls shall avoid the use of exposed concrete (except for modular concrete block wall systems) to the greatest extent practicable.
- E.16 Snow shall be stored within the areas of the site designed on the Final Plans. To the extent snowfall exceeds the capacity of the designated snow storage on the site, the Applicant shall truck the excess snow off-site. Final Plans shall include snow management plan approved by the Department of Public Works.

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- E.17 The Applicant shall comply with all applicable state and federal requirements relating to noise from construction activities, including the regulations contained at 310 CMR 7.10 and the DEP's Noise Policy contained in DAQC Policy 90-001. The Applicant shall also implement all necessary controls to ensure that vibration from construction activities does not constitute a nuisance or hazard beyond the Property. Upon notification from appropriate municipal officials, the Applicant shall cease all construction activities creating noise in excess of state and federal standards, and shall implement such mitigation measures as is necessary to ensure the construction activity will comply with applicable State and Federal requirements.
- E.18 The Applicant is responsible for the sweeping, removal of snow and sanding of the roadway and driveways providing access to residents of the Project, as well as emergency vehicles.
- E.19 The Applicant shall maintain all portions of any public road, whether state or local roads, and Dupee Street used for access to the Property by construction vehicles, free from soil, mud or debris deposited due to such use during the duration of construction.
- E.20 The Construction Management plan shall also include provisions securing the site so that children are kept out of the site and are protected against unsafe conditions. Permanent fencing shall comply with the plans and any Order of Conditions or Superseding Order of Conditions.
- E.21 Prior to the commencement of any work on the Property, the Applicant and the site general contractor shall submit a dust mitigation plan and air quality management plan to the Building Commissioner. Water must be used to mitigate any dust caused by rock crushing, soil sifting, or any other dust creating operation.
- E.22 Construction security fencing shall be utilized at least until the first certificate of occupancy is issued to ensure the safety and security of the site for the benefit of the surrounding neighborhood and the Applicant. Six (6) foot tall chain-link fencing shall be utilized with access gate at the entrance of the site. Walpole Fire Department shall have access to a lock box placed at the entrance to the gate during the construction process. Security personnel shall be utilized to open and close the site daily and confirm/mandate the hours of operation for site personnel.

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E.23 All construction equipment must be off-loaded and parked on the Property. No equipment or material shall be off-loaded or parked on Dupee Street. This excludes work needed to extend Dupee Street as shown on the final approved plan.

E.24 The Applicant shall submit a trucking routes plan, subject to the review and approval of the Town Engineer.

F. Roadway and Traffic Safety Conditions

F.1 Access and egress to the Project shall be consistent with the Approved Plans.

F.2 Any reduction in the number of parking spaces for the Project, absent a corresponding reduction in the number of units, shall constitute a substantial change pursuant to 760 CMR 56.05(11).

F.3 Applicant shall install ADA compliant wheelchair ramps with detectable warning panels at the sidewalk transitions at the intersection of Dupee Street and High Plain Street as shown on the final approved site plan.

F.4 Applicant shall install a marked crosswalk at the intersection of Dupee Street and High Plain Street as shown on the final approved site plan.

F.4 The internal driveways to each unit shall be designed and constructed in accordance with the Approved Plans.

F.5 All individual unit driveways shall have a minimum depth of 20' as measured from the face of building/edge of pavement to the nearest path of public accommodation (ie. travel way).

F.6 Appropriate directional and safety signage shall be shown on the Final Plans and approved by the Fire Department. All stop signs to be installed shall be consistent with the current Manual on Uniform Traffic Control Devices (MUTCD) standards and guidelines.

F.7 The site triangles for the 85th percentile travel speeds be shown on the Final Plans to ensure all vegetation (existing and proposed) of other improvements do not impede required lines of site.

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F.8 Access to existing parcels on Dupee Street shall be maintained at all times and the proposed roadway improvements should be coordinated in a manner that ensures no adverse impact on existing driveways.

F.9 Proposed utility pole location shall be shown on the Final Plans and no certificates of occupancy shall be issued until utility poles have been relocated outside the proposed travel way or areas otherwise required to maintain emergency access.

G. Police, Fire, and Emergency Medical Conditions

G.1 The Project shall comply with NFPA-13 and applicable building codes.

G.2 Posted no parking restrictions along Dupee Street with appropriate markings and/or signage shall be provided on the Final Plans.

H. Water, Septic, Stormwater and Utilities

H.1 The Applicant shall be responsible for the design and installation of the utilities servicing the Project.

H.2 Fire hydrants shall be placed as shown on the Approved Plans, subject to the final approval of the Walpole Fire Department. If the Walpole Fire Department approves different hydrant locations, such modification shall be accepted as an insubstantial change pursuant to 760 CMR 56.05(11).

H.3 The service size for the domestic water service for each individual building should be verified by the Water Department and information on the fire service size and requirements should be verified by the Fire Department (if applicable). The Applicant shall submit information regarding the size of both the domestic and fire services as part of Final Plans, after consultation with the Water Department and the Fire Department respectively.

H.4 All valves and fittings shall be shown on the Final Plans and their locations be approved by the Water department prior to construction and that an as-built plan of all utility infrastructure be provided upon completion.

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- H.5 All water and sanitary sewer improvements necessary to serve the Project must be shown on Final Plans including all details and supporting information required for review by the Water and Sewer Departments. The water and sanitary sewer improvements servicing individual structures are to be completed, and interim as-built plans must be submitted to and approved by the DPW Water / Sewer Department, before any certificate of occupancy for said individual structures may be issued. All operation, maintenance and repair of water and sewer infrastructure within the Project will be the sole responsibility of the Applicant and/or its successor. As-built Plans shall show layout and construction details of all proposed water and sewer infrastructure installed per town standards. A detailed hydraulic analysis shall be submitted to the Building Commissioner that complies with applicable regulations.
- H.6 The Project shall meet all applicable state stormwater management standards to be documented on the Final Plans and approved by the Peer Reviewer prior to issuing a building permit. Stormwater management facilities shall be constructed as shown on the Final Plans.
- H.7 The Final Plans must depict at least 20 feet separation between any building or connecting driveway or walkway and the limit of inundation during 100-year storm event of any above grade stormwater management feature and that the limit of inundation be shown on the Final Plans or supplementary figure.
- H.8 The area of infiltration systems shall be excavated to remove fill down to natural soils and shall be witnessed by an agent of the Town prior to the installing crushed stone and the underground infiltration system.

I. Completion of Infrastructure:

- I.1 As security for completion of the infrastructure shown on the Final Plans, including, but not limited to the roadways, sidewalks, parking, stormwater management system, lighting, water and sewer systems, landscaping and utilities (collectively the "Infrastructure"), the Applicant shall provide security consistent with the provisions of G. L. 41, § 81U, solely for that portion of the Project for which certificates of occupancy are requested and subject to the following:
- a. No certificate of occupancy for a dwelling unit shall be issued until: (1) the portion of the roadway shown on the Final Plans providing access to all of the proposed buildings has been installed, excepting the final course of pavement; and (2) all other Infrastructure necessary to serve all of said buildings, as approved by the Board's peer review engineer or the Building Commissioner

has been constructed and installed so as to adequately serve all of said buildings. The final infrastructure for the Project, including, but not limited to, final course of pavement shall be installed prior to the issuance of a certificate of occupancy for the final dwelling unit. The final infrastructure shall include, but not be limited to: intermediate and final course of pavement, remaining landscaping, and any "punch list" items identified by the Board's engineer or the Building Commissioner. Alternatively, if the Applicant desires to obtain such final certificate of occupancy for the final dwelling unit before the completion of said Final Infrastructure, it shall deposit such security as permitted by M.G.L. ch. 41, section 81U with the Town securing the installation and construction of such Final Infrastructure. The amount of such security and any necessary contingency shall be determined by the Board, acting reasonably and upon the advice of its consulting engineer. The form of the security agreement binding such security shall be subject to reasonable review by Town Counsel.

- b. The Board's peer review engineer shall review the Project upon completion of all such Final Infrastructure as described above, and shall notify the Building Commissioner that all Infrastructure is complete, whereupon security shall be released to Applicant.

J. Other General Conditions

- J.1 In accordance with 760 CMR 56.05(12)(c), this Comprehensive Permit shall expire three (3) years from the date that the permit becomes final, unless (i) prior to that time substantial use of the Comprehensive Permit has commenced or (ii) the time period is otherwise tolled in accordance with law.
- J.2 The Applicant shall comply with all applicable local regulations of the Town of Walpole and its boards, commissions, and departments unless specifically waived herein or as otherwise addressed in these conditions.
- J.3 This Decision prohibits the parking or storage of any unregistered vehicle on the Property, and likewise prohibits the service of any vehicles on the Property, except during construction.
- J.4 Trash and recycling services are not the responsibility of the Town. However, a trash and recycling management plan shall be submitted to the Board of Health for review and approval. No common dumpsters are permitted on the Property.

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- J.5 Prior to the issuance of any certificates of occupancy, and prior to the execution of any purchase and sales agreement or rental agreement for a market rate unit, the Applicant shall submit, to the satisfaction of the Building Commissioner, a copy of the Condominium Trust and Condominium Master Deed which shall include an adequate plan for the operation and maintenance of the Project roadway. The Project roadway shall be maintained in perpetuity by the Condominium Association, which obligation shall be incorporated in the Condominium Association documents, as applicable, and the declaration of restrictive covenants to be executed by the Applicant. The Condominium Association obligation shall include snow removal of Dupee Street. The condominium documents shall include bylaws prohibiting cars from parking on any portion of Dupee Street with exception of the two (2) marked visitor parking spaces.
- J.6 The Applicant shall be responsible for sweeping, removal of snow, and sanding of the Project roadway, permitting safe access to residents and emergency vehicles during construction and until the Condominium Association has been legally established and have assumed said responsibilities.
- J.7 The landscaping shall be maintained in perpetuity by the Condominium Association, which obligation shall be incorporated in the Association documents, as applicable, and the declaration of restrictive covenants, if any, to be executed by the Applicant. Dead or diseased plantings shall be replaced within six (6) months in accordance with growing and weather conditions.
- J.8 If any default, violation or breach of these conditions by the Applicant is not cured within thirty (30) days after notice thereof (or such longer period of time as is reasonably necessary to cure such a default so long as the Applicant is diligently and continuously prosecuting such a cure), then the Town may take one or more of the following steps: (a) by mandamus or other suit, action or other proceeding at law or in equity, require the Applicant to perform its obligations under these conditions; or (b) take such other action at law or in equity as may appear necessary or desirable to enforce these conditions. If the Town brings any claim to enforce these conditions, and the Town finally prevails in such claim, the Applicant shall reimburse the Town for its reasonable attorneys' fees and expenses incurred in connection with such claim.

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V. DECISION

In consideration of all of the foregoing, including the plans, documents and testimony given during the public hearing, the Board hereby [redacted] the Applicant a comprehensive permit for the construction of eight (8) single-family dwelling units of which two (2) will be affordable as defined by the subsidizing agency, pursuant to Chapter 40B, §§ 20-23, for the development described above.

SIGNATURE PAGE TO FOLLOW

DRAFT

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VI. RECORD OF VOTE

On **May __, 2021**, the Board, on a motion made **by __**, seconded **by __**, voted **__** (John Lee, Suzanne Murphy, Robert Fitzgerald, Mary Jane Coffey, and Drew Delaney) **to __** the **Comprehensive Permit** application of Wall Street Development Corp. **to __** for the proposed Development at Assessor's Map 35, Parcel 380-1 of Dupee Street, consisting of eight (8) single-family dwelling units pursuant to Chapter 40B, §§ 20-23.

The Board has complied with all statutory requirements for the issuance of this Comprehensive Permit. A copy of this decision will be filed with the Town Clerk. Copies of this decision have been, or will be mailed, to all parties, persons or boards as required by M.G.L. c. 40B.

Members in favor:

Date:

Filed with the Town Clerk on **May __, 2021**.

Town Clerk

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Notice: Appeals, if any, by any party other than the Applicant, shall be made pursuant to Massachusetts General Laws, Chapter 40A, s. 17, and shall be filed within twenty (20) days after the filing of this notice in the Office of the Town Clerk, Town Hall, Walpole, Massachusetts. Any appeal by the Applicant shall be filed with the Housing Appeals Committee pursuant to G. L. c. 40B, § 23, within twenty (20) days after the filing of this notice in the Office of the Town Clerk.

Exhibit "A" – Waivers

Pursuant to the Waiver List revised and submitted to the Board, the Applicant has requested, and the Board has granted, certain waivers from the Walpole Zoning Bylaws and other local by-laws and regulations as specified in the attached Exhibit A. No waivers are granted from requirements that are beyond the purview of G. L. c. 40B, §§20-23, and no waivers have been granted other than those set forth in Exhibit A. No waiver of permits or inspections fees are granted.

On **May __, 2021**, the Board, on a motion made by **___**, seconded by **___**, voted **___** (John Lee, Suzanne Murphy, Robert Fitzgerald, Mary Jane Coffey, and Drew Delaney) to **approve** certain attached **Waivers** for the proposed Development at Dupee Street, consisting of a total of eight (8) single-family dwelling units pursuant to Chapter 40B, §§ 20-23.